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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/657,154	09/07/2000	Shun Nakamura	K6510.0055/P055	9966
24998 7590 04/10/2007 DICKSTEIN SHAPIRO LLP 1825 EYE STREET NW Washington, DC 20006-5403			EXAMINER NGUYEN, KIM T	
			ART UNIT 3714	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		04/10/2007	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

09/657,154

Applicant(s)

NAKAMURA ET AL.

Examiner

Kim T. Nguyen

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 8-16, 18-21, 38-40, 44-49 and 52-60 is/are pending in the application.
- 4a) Of the above claim(s) 8-16, 18-21 and 38-40 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 44-49 and 52-60 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

Examiner acknowledges receipt of the RCE filed with the amendment on 1/19/07. Currently, claims 44-49 and 52-60 are examined in this office action, claims 8-16, 18-21 and 38-40 are withdrawn from consideration, and claims 8-16, 18-21, 38-40, 44-49 and 52-60 are pending in the application.

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**2. Claims 44-49 and 52-60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lipps et al (US 5,741,182) in view of Fenner et al (US 5,009,501) and Suzuki et al (US 6,227,968).**

Re claim 44: Lipps discloses a game apparatus operated by a motion of a game player, comprising an operation device 4 (Fig. 1) to be operated by the game player; a position detector detecting light from the bat (col. 1, lines 45-47 and col. 2, lines 56-58) at a plurality of positions (Fig. 2; ref 47); and a display unit 3 (Fig. 1) for issuing a prescribed operation to a game player and determining correctness of player device operation (col. 3, lines 5-12). Lipps does not disclose capturing successive spatial positions of an operation device to create a trace of the operation

device movements. Fenner discloses a remotely controllable position indicator system that uses light emitters and detectors to determine movement and orientation of objects (Abstract). Fenner discloses the system as a remotely hand held implement (col. 1, lines 22-23) with transmitter and receiver pairs to form a number of planes used to determine 3-D spatial reference with respect to the hand held implements (col. 1, lines 59-67 and col. 2, lines 37-48). Thus Fenner discloses that successive spatial positions are used to detect the movement of the operation device. Fenner envisions the system to be used for a plurality of applications such as detecting relative locations of players in a game and for interacting with images on a video screen (col. 1, lines 1-20). One would be motivated to use the 3-D spatial detection system taught by Fenner because such a system can increase the accuracy of the position detection system thus providing a player with better simulation and analysis of player performance (Lipps, col. 1, lines 25-55).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Lipps to use the 3-D spatial detection system taught by Fenner so that an increase in detection accuracy can provide better game simulation and analysis for a player. Further, Lipps in view of Fenner does not disclose a command mark with a command of a specific operation. However, Suzuki teaches a game machine including a display unit for displaying game displays opposed to the game player (Fig. 2), the display unit is configured to display a first command mark M1 (Fig. 8) on a display screen, which is blown out from a single prescribed appearance position S1-S4 (Fig. 8) in accordance with a rhythm of

music, and moves from the single prescribed appearance position to a first position (e.g. left position) of a plurality of prescribed disappearance positions (Figs. 7-9), and is drawn into the first position (e.g. left position), in order to display a first command (e.g. stepping left) to be carried out, the display unit is configured to display a second command mark M2 (Fig. 8) on the display screen, which is blown out from the single prescribed appearance position S1-S4 (Fig. 8) to a second position (e.g. right position in Fig. 8) of a plurality of prescribed disappearance positions (Figs. 7-9), and is drawn into the second position (e.g. right position), in order to display a second command (e.g. stepping right) to be carried out, the first position (e.g. left position) and the second position (e.g. right position) being different from each other and the first command (e.g. stepping left) and the second command (e.g. stepping right) being different from each other. Suzuki further teaches that musical rhythm is integrated with the game command marks, where the commands indicate a position a player needs to take (col. 16, line 9 through col. 17, line 8). Lipps in view of Fenner and Suzuki are related as game machines capturing moves of a user, wherein game computer judges move correctness. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Lipps in view of Fenner and include a specific command operation with the command mark taught by Suzuki so that a player attempting to associate correct moves with specific pitches can be told what type of pitches was being displayed.

Re claims 45-49: since claims 45-49 disclose the same subject matter cited

in claim 44 , claims 45-49 are similarly rejected as explained in claim 44 above.

Re claim 52: since claim 52 discloses the same subject matter cited in claim 44, claim 52 is similarly rejected as explained in claim 44 above. Further, since Lipps discloses including a game machine 1 (Fig. 2) in the game system (col. 3, lines 13-17; and col. 6, line 4), Lipps obviously encompasses including a control unit for controlling a game as claimed.

Re claims 53-55: since claims 53-55 disclose the same subject matter cited in claim 44, claims 53-55 are similarly rejected as explained in claim 44 above.

Re claim 56: since claim 56 discloses the same subject matter cited in claim 44, claim 56 is similarly rejected as explained in claim 44 above. Further, since Lipps discloses including a game machine 1 (Fig. 2) in the game system (col. 3, lines 13-17; and col. 6, line 4), Lipps obviously encompasses including a control unit for controlling a game as claimed.

Re claim 57: since claim 57 discloses the same subject matter cited in claim 44, claim 57 is similarly rejected as explained in claim 44 above.

Re claim 58: since claim 58 discloses the same subject matter cited in claim 44, claim 58 is similarly rejected as explained in claim 44 above. Further, since Lipps discloses including a game machine 1 (Fig. 2) in the game system (col. 3, lines 13-17; and col. 6, line 4), Lipps obviously encompasses including a control unit for controlling a game as claimed.

Re claim 59: since claim 59 discloses the same subject matter cited in claim 44, claim 59 is similarly rejected as explained in claim 44 above. Further, since

Lipps discloses including a game machine 1 (Fig. 2) in the game system (col. 3, lines 13-17; and col. 6, line 4), Lipps obviously encompasses including a control unit for controlling a game as claimed.

Re claim 60: since claim 60 discloses the same subject matter cited in claim 44, claim 60 is similarly rejected as explained in claim 44 above.

### ***Response to Arguments***

3. Applicant's arguments filed 1/19/07 have been fully considered but they are not persuasive.

Applicant argues in page 30, last paragraph, through page 33, second paragraph, and page 33, last two paragraphs, that Lipps, Fenner and Suzuki fail to teach (a) a single prescribed appearance position and a plurality of prescribed disappearance positions on a display screen, (b) displays a first command mark on the display screen, which is blown out from a single prescribed appearance position in accordance with a rhythm of music, moves from the single prescribed appearance position to a first position of the prescribed disappearance positions, and is drawn into the first position, in order to display a first command to be carried out; (c) displays a second command mark on the display screen, which is blown out from the single prescribed appearance position in accordance with a rhythm of music, moves from the single prescribed appearance position to a second position of the prescribed disappearance positions, and is drawn into the second position, in order to display a second command to be carried out; (d) the first

position and the second position are different from each other; and (e) the first command and the second command are different from each other. It is noted that Lipps and Fenner do not teach the use of command marks in the manner claimed above. However, Suzuki teaches the claimed features from (a) to (e) above. Refer to the 35 U.S.C. 103(a) rejections on claim 44 above.

Applicant argues in page 32, last paragraph, through page 33, lines 1-6, Suzuki does not disclose a detection system for detecting at least one object with respect to a plurality of positions. However, Fenner teaches the detection system as claimed.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kim T. Nguyen whose telephone number is (571) 272-4441. The examiner can normally be reached on Monday-Thursday from 8:30AM to 5:00PM ET.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai, can be reached on (571) 272-7147. The central official fax number is (571) 273-8300.

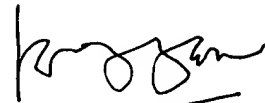
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Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

kn  
Date: March 30, 2007

A handwritten signature in black ink, appearing to read 'Kim T. Nguyen', with a horizontal line underneath.

Kim T. Nguyen  
Primary Examiner  
Art Unit 3714